



# COMPLIANCE DIVISION

# TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS

## COMPLIANCE DIVISION

### I. OVERVIEW

The **COMPLIANCE DIVISION** is responsible for the licensing and regulatory supervision of the following seven types of financial institutions operating in Tennessee:

- Check Cashing
- Deferred Presentment Service Companies
- Money Transmitters
- Industrial Loan & Thrift Companies
- Insurance Premium Finance Companies
- Residential Mortgage Lenders, Brokers, and Servicers

With the development of a comprehensive examination program, all of the above industries are subject to periodic examinations by the Division's field examiners. The Compliance Division's examinations are designed to test and enforce compliance with Tennessee laws as well as Federal regulations. These laws were written in order to protect the consumer by limiting the amount of interest, loan charges, and insurance charges that can be assessed to them.

The field examiners also investigate consumer complaints and allegations of consumer fraud and usury. The Division's staff is also responsible for investigating consumer complaints involving title pledge lenders and reports of inadequate or inaccurate disclosures given to consumers by these title pledge lenders.

### II. CHECK CASHING COMPANIES

The activities of Check Cashing Companies are governed by "The Check Cashing Act of 1997", codified as T.C.A. Title 45, Chapter 18. Retailers who cash checks incidental to their retail operations are exempt from the Act if their compensation for cashing checks does not exceed five per cent (5%) of their gross receipts. See T.C.A. § 45-18-103(5).

#### A. Licensing

To obtain a check cashing license, an applicant must maintain a net worth of at least \$25,000.00 and demonstrate sufficient character and experience to command the confidence of the public and warrant the belief that the applicant will operate its business lawfully and fairly. There were 300 locations licensed as of December 31, 2000.

#### B. Examinations

Examinations of licensed check cashers are conducted pursuant to T.C.A. § 45-18-113. During calendar year 2000, the Division conducted 174 exams of licensed check cashing companies. These exams resulted in 29 refunds totaling \$1,903.23.

### III. DEFERRED PRESENTMENT SERVICE COMPANIES

#### A. Licensing

Last year, this Division identified seven companies operating without a license. Businesses wanting to obtain a license were required to refund any fees they collected in excess of those authorized by the Act and pay civil money penalties.

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## B. Examinations

For the year ending December 31, 2001, this Division conducted 884 examinations of deferred presentment offices. Typically, compliance examiners review a random sample of the licensee's transactions by looking at the fees charged and the disclosures given to the customers. Violations were cited in 167 or 19% of these examinations. This compares with 53% in 1998 and 24% in 1999. Licensees were required to refund all excessive or unauthorized fees pursuant to T.C.A. § 45-17-115, resulting in total refunds of \$50,147.00 to 547 customer accounts. The Department took administrative action against repeat violators by having six companies sign Consent Orders, and assessing one civil money penalty of \$2,000.00. Five companies failed to take appropriate action and, as a result, the Department denied their license renewal applications.

## C. Consumer Complaints

Under T.C.A. § 45-17-117, any person aggrieved by the conduct of a licensee under this chapter in connection with the licensee's regulated activities may file a written complaint with the Commissioner who may investigate the complaint. Generally, complaints involve licensees who had either charged service fees in excess of the rate authorized by T.C.A. § 45-17-112(b) or imposed late fees. Last year, this Division received 13 complaints, resulting in either refunds or credits to six customers for a total of \$902.00. One company signed a Consent Order. This compares with 23 written complaints received in 1998, and 17 received in 1999.

## D. Annual Report Information

By September 1<sup>st</sup> of each year, each licensee must, pursuant to T.C.A. § 45-17-119, file with the Commissioner of Financial Institutions an Annual Report covering the licensee's business activities as of the close of business on June 30. These reports include a balance sheet, statement of income and expense, as well as other statistical data consistent with generally accepted accounting principles.

The following tabulation represents aggregate information from reports filed by 358 companies with 846 branch offices. The Department did not require an annual report from companies opened after June 2000:

Total Assets	\$80,962,486
Receivables Outstanding	\$27,114,469
Total Liabilities	\$22,905,093
Net Worth	\$58,057,393

Total assets of the average sized company operating in Tennessee are \$228,063.00. We have 21 companies with assets in excess of \$500,000.00 and 129 with assets of between \$100,00.00 and \$500,00.00. The remaining companies have assets under \$100,000.00. As with many small companies, funding for the business is supplied principally by the owner(s) with total assets being comprised of 28.3% liabilities and 71.7% owner equity. About 3.5% of assets are invested in receivables with the balance in fixed and other assets.

### i. Income Information for 12 Months Ended June 30, 2000

The following information was compiled from the statements of income and expenses for the period of July 1, 1999 to June 30, 2000:

Total Operating Income	\$92,754,337
Salary Expense	\$23,992,891
Bad Debt Expense	\$ 6,289,839
Net Income (After Tax)	\$11,981,884

Of the 358 reporting companies, 70 reported operating losses and 25 reported net income of over \$100,000.00 for the period ending June 30, 2000. The average company made a profit of \$33,469.00.

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Salaries are a major company expense, amounting to about 26% of total operating income. The average salary expense for each company is \$67,017.00.

Losses on receivables constitute another major industry expense. Bad debt expense represented approximately 6.8% of total operating income and about 23% of receivables as of June 30, 2000.

As of June 30, 2000, the industry made a return on assets of 14.8% based on total assets and a return on equity of 20.6%.

## ii. Transactional Data

Number of Receivable Transactions	2,458,450
Dollar Amount of Transactions during the Year	\$386,474,599
Average Size of Receivable Transactions	\$ 168

Number of Transactions by Size of Check:

\$ 1 – \$150	460,789
\$151 – \$250	1,964,918
\$251 – \$500	32,743

## iii. Data from this Year's Annual Report is shown side by side with 1998/1999 for comparison:

	<u>2000</u>	<u>1999</u>	<u>1998*</u>
Number of Licenses	846	700	605
Total Assets \$80,962,486	\$51,864,372	\$43,046,000	
Total Liabilities	\$22,905,093	\$12,884,695	\$13,925,000
Net Worth	\$58,057,393	\$38,979,681	\$29,121,000
Total Operating Income	\$92,754,337	\$60,476,544	\$56,234,000
Salary Expense	\$23,992,891	\$13,341,234	\$13,791,600
Salary Expense: Op. Income	23%	22%	24.5%
Bad Debt Expense	\$ 6,289,839	\$ 4,214,320	\$ 5,161,200
Bad Debt Expense: Op. Income	6.8%	6.9%	9.2%
Net Income after Tax	\$11,981,884	\$10,337,781	\$ 4,900,200
Rate of Return on Assets	14.8%	19.9%	11.4%
Rate of Return on Equity	20.6%	26.5%	16.8%
Number of Receivable Transactions	2,458,450	1,845,273	1,222,962

\*In 1998, two companies had sizeable losses attributable to large legal settlements. With these companies excluded, the remaining businesses had annualized net income of \$8,182,900; total assets of \$36,006,000; and total net worth of \$26,937,000. On this basis, the industry had a return on assets of 22.7% and a return on equity of 30.4%.

## IV. MONEY TRANSMITTERS

The activities of Money Transmitter companies are governed by "The Tennessee Money Transmitter Act of 1994", codified as T.C.A. Title 45, Chapter 7. There are exemptions that apply to certain government agencies, as well as business organizations. See T.C.A. § 45-7-204.

### A. Licensing

Each applicant for a license must demonstrate, and each licensee must maintain, a net worth of not less than \$100,000.00 computed according to generally accepted accounting principles. Persons transmitting, or proposing to transmit, money shall have an additional net worth of \$25,000.00 per additional location or agent located in Tennessee, as applicable, to a maximum of \$500,000.00. The applicant must demonstrate such experience, character, and general fitness as to command the

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confidence of the public and warrant the belief that the business to be operated thereunder will be operated lawfully and fairly. As of December 31, 2000, we had licenses for 33 locations.

## B. Examinations

Examinations of money transmitters are conducted pursuant to T.C.A. § 45-7-214. The Commissioner, in lieu of an on-site examination, may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm, and reports so accepted are considered, for all purposes, as an official report of the Commissioner.

## V. INDUSTRIAL LOAN AND THRIFT COMPANIES

Consumer loan companies and some mortgage brokers operate under The Industrial Loan and Thrift Companies Act, codified as T.C.A. Title 45, Chapter 5. The stated purpose of the Act is to allow citizens to have the services of regulated lending institutions at rates and charges reasonably commensurate with economic realities. This Act authorizes those companies that obtain a certificate of registration to charge rates and fees somewhat higher than what may be charged under the State's General Usury statutes. While the Act allows higher interest rates, it also contains many consumer protection provisions particularly with respect to loan charges.

## A. Registration

To obtain a certificate of registration, an applicant must maintain a net worth of at least \$25,000.00 and demonstrate sufficient character to command the confidence of the public and warrant the belief that the applicant will operate its business lawfully and fairly. At the end of year 2000, there were 842 locations licensed under the Act.

## B. Examinations

We conducted 673 examinations resulting in refunds of \$307,163.49 to 6,722 consumers. We examined 80% of the licensed locations. Special examinations were conducted frequently as a result of complaints filed with the Department.

## C. Complaints

There were 18 complaints filed and resolved in 2000. A total of \$2,540.00 was refunded to consumers as a result of these complaints.

## D. Annual Report Information

Pursuant to T.C.A. § 45-5-503, each registrant must file with the Commissioner by no later than July 31<sup>st</sup> of each year, an annual report showing basic financial information as to the registrant's operations. The information in the following Exhibits were derived from those reports covering the time period of January 1, 1999 – December 31, 1999.

- i. Industrial Loan & Thrift Companies with loans less than \$300.00
- ii. Industrial Loan & Thrift Companies with loans greater than \$300.00
- iii. Industrial Loan & Thrift Companies Composite Annual Report

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## INDUSTRIAL LOAN AND THRIFT COMPANIES

### Composite Annual Report

Year Ending December 31, 1999

	December 31, 1999	December 31, 1998	December 31, 1997
Number of Offices Included in this Report	604	719	723
Number of Employees in State at Year-end	2,161	2,777	2,960

#### REGULATED ENTITIES PROFIT PERCENTAGE

#### RATE OF RETURN

Average Net Receivable	\$1,768,944,526	\$1,749,519,280	\$1,715,151,645
Net Income	\$10,224,223	\$14,122,016	\$38,351,232
Rate of Return	0.57%	0.80%	2.23%

#### ANALYSIS OF CHARGES ON LOANS

Charges Collected and/or Earned	\$388,987,083	\$402,754,204	\$404,674,467
Average Monthly Rate Collected	1.83%	1.91%	1.96%

#### ANALYSIS OF EXPENSE PER ACCOUNT

Average Number of Accounts Outstanding	455,818	464,682	486,295
Total Expenses	\$378,762,860	\$388,632,188	\$366,323,235
Average Monthly Expense Per Account	\$69.25	\$69.70	\$62.75

#### STATEMENT OF INCOME AND EXPENSES

Total Operating Income	\$388,987,083	\$402,754,204	\$404,674,467
Total Expenses Before Income Taxes	\$376,627,023	\$380,180,626	\$352,517,513
Income Before Income Taxes	\$12,360,060	\$22,573,578	\$52,156,954

#### OTHER INFORMATION

Number of Loans Made During the Year	801,440	793,849	840,643
Dollar Volume of Loans Made During the Year	\$1,665,512,084	\$1,779,763,424	\$1,938,506,356
Bad Debts	\$65,884,713	\$63,986,962	\$67,867,313
Bad Debts – Number of Accounts	47,537	43,321	51,254

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## INDUSTRIAL LOAN AND THRIFT COMPANIES

### Loans Less Than \$300 Year Ending December 31, 1999

	December 31, 1999	December 31, 1998	December 31, 1997
Number of Offices Included in this Report	20	719	723
Number of Employees in State at Year-end	76	2,777	2,960

#### REGULATED ENTITIES PROFIT PERCENTAGE

#### RATE OF RETURN

Average Net Receivable	\$4,006,022	\$1,749,519,280	\$1,715,151,645
Net Income	\$728,077	\$14,122,016	\$38,351,232
Rate of Return	18.18%	0.80%	2.23%

#### ANALYSIS OF CHARGES ON LOANS

Charges Collected and/or Earned	\$4,811,726	\$402,754,204	\$404,674,467
Average Monthly Rate Collected	10.00%	1.91%	1.96%

#### ANALYSIS OF EXPENSE PER ACCOUNT

Average Number of Accounts Outstanding	26,841	464,682	486,295
Total Expenses	\$4,083,649	\$388,632,188	\$366,323,235
Average Monthly Expense Per Account	\$12.68	\$69.70	\$62.75

#### STATEMENT OF INCOME AND EXPENSES

Total Operating Income	\$4,811,726	\$402,754,204	\$404,674,467
Total Expenses Before Income Taxes	\$4,027,374	\$380,180,626	\$352,517,513
Income Before Income Taxes	\$784,352	\$22,573,578	\$52,156,954

#### OTHER INFORMATION

Number of Loans Made During the Year	174,578	793,849	840,643
Dollar Volume of Loans Made During the Year	\$31,207,237	\$1,779,763,424	\$1,938,506,356
Bad Debts	\$718,740	\$63,986,962	\$67,867,313
Bad Debts – Number of Accounts	5,419	43,321	51,254

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## INDUSTRIAL LOAN AND THRIFT COMPANIES

### Loans Greater Than \$300

Year Ending December 31, 1999

	December 31, 1999	December 31, 1998	December 31, 1997
Number of Offices Included in this Report	584	719	723
Number of Employees in State at Year-end	2,085	2,777	2,960

#### REGULATED ENTITIES PROFIT PERCENTAGE

#### RATE OF RETURN

Average Net Receivable	\$1,764,938,504	\$1,749,519,280	\$1,715,151,645
Net Income	\$9,496,146	\$14,122,016	\$38,351,232
Rate of Return	.54%	0.80%	2.23%

#### ANALYSIS OF CHARGES ON LOANS

Charges Collected and/or Earned	\$384,175,357	\$402,754,204	\$404,674,467
Average Monthly Rate Collected	1.81%	1.91%	1.96%

#### ANALYSIS OF EXPENSE PER ACCOUNT

Average Number of Accounts Outstanding	428,977	464,682	486,295
Total Expenses	\$374,679,211	\$388,632,188	\$366,323,235
Average Monthly Expense Per Account	\$72.79	\$69.70	\$62.75

#### STATEMENT OF INCOME AND EXPENSES

Total Operating Income	\$384,175,357	\$402,754,204	\$404,674,467
Total Expenses Before Income Taxes	\$382,599,649	\$380,180,626	\$352,517,513
Income Before Income Taxes	\$11,575,708	\$22,573,578	\$52,156,954

#### OTHER INFORMATION

Number of Loans Made During the Year	626,862	793,849	840,643
Dollar Volume of Loans Made During the Year	\$1,634,304,847	\$1,779,763,424	\$1,938,506,356
Bad Debts	\$65,165,979	\$63,986,962	\$67,867,313
Bad Debts – Number of Accounts	42,188	43,321	51,254



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## VI. INSURANCE PREMIUM FINANCE COMPANIES

The activities of Premium Finance Companies are governed by the “Premium Finance Company Act of 1980”, codified as T.C.A. Title 56, Chapter 37. “Premium Finance Company” means a person engaged in the business of entering into premium finance agreements or acquiring premium finance agreements from other premium finance companies. “Premium finance agreement” means an agreement by which an insured, or prospective insured, promises to pay to a premium finance company the amount advanced, or to be advanced under the agreement to an insurer or to an insurance agent or producing agent in payment of premiums of an insurance contract, together with interest and a service charge as authorized and limited by this Chapter.

### A. Registration

To obtain a license, an applicant must, pursuant to T.C.A. § 56-37-104(b), be competent and trustworthy, act in good faith, have a good business reputation, experience, training or education in this business. Furthermore, if the applicant is a foreign or domestic corporation, LLC, or limited partnership, it must be authorized to conduct business in this state. At the end of the year 2000, there were 73 companies licensed under the Act.

### B. Examinations

We conducted 11 examinations, representing 48% of the licensed offices located in Tennessee.

### C. Complaints

No consumer complaints were received on Premium Finance Companies in the year 2000.

## VII. RESIDENTIAL MORTGAGE LENDERS, BROKERS, AND SERVICERS

The activities of Residential Mortgage Lending, Brokering, and Servicing companies are governed by the “Tennessee Residential Lending, Brokerage and Servicing Act of 1988”, codified as T.C.A. Title 45, Chapter 13. T.C.A. § 45-13-103(a) expands this further by stating “no person shall engage in the business of making mortgage loans, nor shall any person engage in the business of being a mortgage loan broker in this state, nor shall any person engage in the business of being a mortgage loan servicer in this state, without first obtaining a license from the Commissioner of filing a registration statement under this Chapter”. Certain companies may be exempt under criteria explained in T.C. A. § 45-13-103.

### A. Registration

To obtain a certificate of registration, an applicant must maintain a net worth of at least \$25,000.00 and demonstrate sufficient character to command the confidence of the public and warrant the belief that the applicant will operate its business lawfully and fairly. At the end of year 2000, there were 1,113 companies licensed under the Act with 479 branches.

### B. Examinations

We conducted 51 examinations resulting in refunds of \$1,241.80 to consumers. We examined 4.58% of the licensed companies.

## C. Complaints

There were 123 complaints filed and resolved in the year 2000. As a result of these complaints, we refunded a total of \$13,579.31.